

**BULLETIN
CHILD NUTRITION PROGRAMS****NSLP 04-11
SFSP 03-11****February 7, 2011****SUBJECT: CNP Reauthorization 2010:
Categorical Eligibility of Foster Children****CONTACT: Charlene S. Allert, M.P.H. PH: (801) 538-7563**

The Healthy, Hunger-Free Kids Act of 2010 (the Act), Public Law 111-296, provides categorical eligibility for free meals to foster children. The purpose of this memorandum is to provide guidance on the implementation of this provision in the Child Nutrition Programs.

Section 102 of the Act amends Section 9(b)(12)(A) of the Richard B. Russell National School Lunch Act (NSLA) to provide categorical eligibility for free meals, without further application, to any foster child whose care and placement is the responsibility of the State or who is placed by a court with a caretaker household. In addition, the Act amends Section 9(b)(5) of the NSLA to allow certification of a foster child for free meals, without application, if the local educational agency or other child nutrition program institution obtains documentation from an appropriate State or local agency indicating the status of the child as a foster child whose care and placement is the responsibility of the State or that the foster child has been placed with a caretaker household by a court. These provisions are effective October 1, 2010.

We strongly encourage school food authorities and other child nutrition institutions to establish formal mechanisms with State and local foster agencies to receive information directly from these agencies to facilitate certification for free meals for foster children.

It is important to note that these provisions only apply to foster children formally placed by a State child welfare agency or a court. They do not apply to informal arrangements that may exist outside of State or court based systems.

Changes to Application Process

This change to allow categorical eligibility for free meals for foster children necessitates changes in the way free and reduced price applications are handled. Previously, a separate application for

SP 17-2011, CACFP 08-2011, SFSP 05-2011; CACFP CN Reauthorization Q&A 1/1/2011-2/1/2011

free and reduced price meals was submitted for a foster child who was considered a household of one.

Now, the foster child is categorically eligible and may be certified without an application. Households with foster and non-foster children may choose to include the foster child as a household member, as well as any personal income earned by the foster child, on the same household application that includes their non-foster children. This will streamline the application process and may help the foster family's non-foster children qualify for free or reduced price meals based on household size and income.

In processing the application, the local educational agency (LEA) or other child nutrition program institution would certify the foster child for free meals, and then make an eligibility determination for the remainder of the household based on the household's income (including personal income earned by the foster child) or other categorical eligibility information reported on the application. As before, foster payments received by the family from the placing agency are not considered income and do not need to be reported. Please note that the presence of a foster child in the household does not convey eligibility for free meals to all children in the household in the same manner as Supplemental Nutrition Assistance Program (SNAP), Temporary Assistance for Needy Families (TANF), and Food Distribution Program on Indian Reservation (FDPIR) participation does.

LEAs and other child nutrition program institutions should implement this change as soon as possible for any new foster children identified by foster agencies or who submit applications for the remainder of this school year. All household applications and supporting materials must be updated to reflect these changes no later than the beginning of School Year 2011-2012. FNS will provide updated prototype applications and supporting materials for all Child Nutrition Programs in the near future.

Finally, we are working with our partners at the Department of Health and Human Services to notify State child welfare agencies of this provision.

Excerpts from CACFP Q & A, 1/1/2011-2/1/1011

Question 23

What if a foster child moves out of the foster system and back with parents - does that free direct cert follow the child for the rest of the year?

Answer

The answer to this question is yes. According to the Eligibility Manual, Part 3: Processing Eligibility, Section G: "... a child's eligibility is in effect from the date of eligibility for the current school year and for up to 30 operating days in the subsequent school year." If the child is a foster child at the time eligibility was determined, they will remain free for the subsequent school year and 30 days into the next school year.

Question 24

What does that do the foster family - are they still eligible for the rest of the year?

Answer

Yes, if the foster family qualifies for free meals, and at the time eligibility is determined, the foster child lives with them, they remain free for the year. However, as stated in section G "... this does not apply when the initial eligibility determination was incorrect or when verification of household eligibility does not support the level of benefits for which the household was approved." The parents, of course, could reapply if there are other children in the home and one more child might make them eligible...so one child could be counted in more than one household and make both (or all) of them eligible. The "foster child" would remain free for the school year per the Eligibility Manual. The foster family would remain qualified for their eligibility, unless during verification it is found the foster child has moved out and changes their status, and would remain eligible under CACFP for the remainder of the year regardless of the change, as described above. The child could be included in their new household, however, unless the parental household of the "foster child" has another child or has changed school districts, the "foster child" who has moved to a new home would not need to re-apply because their eligibility is good for one year.

Question 25

What about temporary placements. I know that foster is never permanent...but if a child is in a home for just a few days in an emergency placement, can the foster family count the child/children and apply for benefits?

Answer

The "foster child" would qualify as free for the school year per the Eligibility Manual, and as long as the foster child was formally placed by a State child welfare agency or court and is not an informal arrangement that exists outside of the State or a court based system. The family would remain qualified for their eligibility with the child living in the household. If the child moves out of the household and the family fails to notify the school, during verification the status may or may not change.

Question 26

Given this is retroactive to October 1, can NSLP and CACFP agencies contact families with foster children and let them reapply with the foster child listed as a household member and include the child's income? If they are now eligible and the agency and family can come to agreement on how many meals the children have consumed, that the agency could refund the money to the families and revise their claims back to October 1? The 90-day revision date for October is already gone by - will we be able to accept revisions beyond that date?

Answer

Only if the SFA/institution is willing to use their one-time exception can the schools/institution can go back and revise their claims.